

MEMORANDUM OF LAW

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DATE: August 8, 1989

TO: The Honorable Mayor and City Councilmembers

FROM: City Attorney

SUBJECT: Potential Conflict of Interest Arising from
Ownership of Real Property Near Chinese
Mission/Item 601 Joint Meeting of City Council
and Redevelopment Agency of August 1, 1989

Shortly before the Joint Meeting of the City Council and Redevelopment Agency on August 1, 1989, a question arose regarding the part ownership by one Councilmember of real property near the property that is the subject of Item 601 on the Joint Meeting agenda.

Having no other facts before us other than the proposal on the Council agenda of August 1st to grant a lease to the Chinese Historical Society to operate the Chinese Mission and the fact that the Councilmember is part owner of a hotel within 2,500 feet of the subject property, we were asked to provide an oral opinion on whether the Councilmember could participate in the Item 601 discussion or vote.

Referring to recently amended Fair Political Practices Commission (FPPC) Rules (2 California Code of Regulations section 18702 through 18702.6), we opined that there could be a potential disqualifying conflict if, as a result of the Council's action, there was a reasonably foreseeable material financial effect on the Councilmember's property resulting from the Council's decision that differs from the effect on the public generally. Whether there would in fact be a material financial effect would turn in part on whether the hotel is within 2,500 feet of the subject property (see Regulation 18702.3).

A copy of the recent FPPC rules defining the meaning of "material financial effect" is attached for your reference. The rules are complex and lengthy, but ultimately provide a helpful

step-by-step process for determining whether a material financial effect will result from City Council action.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

CCM:jrl:048(x043.2)

Attachments

ML-89-78